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May 18, 2000

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Petition for Arbitration of the Interconnection Agreement Between
BellSouth Telecommunications, Inc. and Time Warner Telecom of the Mid-
South, L.P. Pursuant to Section 252(b) of the Telecommunications Act of
1996; Docket No. 99-00797.

Petition for Arbitration by ITC Delta^Com Communications, Inc. with
BellSouth Telecommunications, Inc. Pursuant to the Telecommunications
Act of 1996; Docket No. 99-00430

Petition of NEXTLINK Tennessee, Inc. For Arbitration of an
Interconnection Agreement With BellSouth
Telecommunications, Inc.; Docket No. 98-00123

Dear David:

On Monday, May 15, Time Warner, ITC Delta^Com and NEXTLINK Tennessee, Inc. ("NEXTLINK") submitted a joint response to BellSouth's "Motion for Clarification" filed in the above-captioned proceeding.

Through a mis-communication among the parties, the joint filing should not have listed NEXTLINK as joining in the arguments made by ITC Delta^Com and Time Warner.

While NEXTLINK agrees fully with Time Warner and ITC Delta^Com that BellSouth's Motion should be denied, NEXTLINK is today submitting a separate response to BellSouth's motion.

David Waddell
May 18, 2000
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Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

A handwritten signature in black ink, appearing to read "H. Walker", with a stylized flourish at the end.

Henry Walker

HW/nl
c: Guy Hicks
H. LaDon Baltimore
Charles B. Welch, Jr.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In Re: Petition of NEXTLINK Tennessee, Inc.)
for Arbitration of Interconnection Agreement) Docket No. 98-00123
with BellSouth Telecommunications, Inc.)

**RESPONSE TO BELL SOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR CLARIFICATION**

NEXTLINK Tennessee Inc. ("NEXTLINK") submits the following brief in opposition to the "Motion for Clarification" filed by BellSouth Telecommunications, Inc. ("BellSouth") in the above-captioned arbitration proceeding.

ARGUMENT

During a regularly scheduled public meeting on March 28, 2000, the Tennessee Regulatory Authority ("TRA") orally announced that BellSouth should pay reciprocal compensation for ISP-bound telephone calls "pending completion of the FCC's rulemaking" on the ISP issue. The agency did not, however, order any type of retroactive "true up" of reciprocal compensation rates. BellSouth now asks that the TRA reconsider its decision and require that whatever reciprocal compensation rate the FCC adopts for ISP traffic be applied retroactively. NEXTLINK opposes BellSouth's request.

Unless and until the FCC adopts a nationwide, reciprocal compensation rate for ISP traffic, it would be premature for the TRA to decide when and how the rate is to be applied to pre-existing interconnection agreements, such as the BellSouth-NEXTLINK agreement.

The FCC's decision announcing that it will begin a rulemaking to fix an "interstate" reciprocal compensation for all ISP traffic has been vacated by the United States Court of Appeals and remanded to the agency. *Bell Atlantic Telephone Companies v. FCC*, 206 F.3d 1 (D.C. Cir., 2000). In light of the Court's highly skeptical description of the FCC's jurisdictional claims, it is questionable whether the FCC will ever be able to fix a federal, reciprocal compensation rate that will survive judicial review. In these circumstances, it hardly makes sense for the TRA to presume that such a rate will be established. It makes even less sense to declare now that the FCC's rate should become effective in Tennessee before it has been reviewed again by the U. S. Court of Appeals.

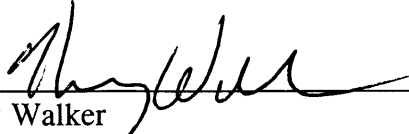
Even if the FCC eventually sets a federal rate, no one knows whether the FCC rate will preempt state-approved rates or how the federal rate will affect existing interconnection agreements. At one extreme, the FCC may decide to fix a federal rate, preempt all existing interconnection agreements, and order prospective adjustments to offset any over or under collections (*i.e.*, a "true-up") resulting from state regulatory decisions. At the other extreme, the FCC might simply delegate the fixing of reciprocal compensation rates to state arbitrators subject only to federal court review. Multiple alternatives lie between. Once the FCC issues its opinion, the TRA will be able to make a meaningful decision about how the federal rule should be interpreted and applied. Assuming that the FCC gives the TRA some discretion in applying the FCC's rule, there is no good reason for the agency to issue a decision in May, 2000, which would bind the TRA to a future course of action months, or even years, from now.


CONCLUSION

For these reasons, BellSouth's "Motion for Clarification" should be denied.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 8 day of May, 2000.

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